

YAVAPAI COUNTY WATER WELL CODE

SECTION	TITLE	PAGE
I.	Definitions	2
II.	Approval, Operation Violation and Distance Requirements	3
III.	Application and Review	4
IV.	Enforcement, Penalties and Hearing Process	5
V.	Authority to Regulate	6
VI.	Effective Date	6

SECTION I DEFINITIONS

Reg. 1-1-101 Definitions

- A. “ADWR” means the Arizona Department of Water Resources. ADWR is the state agency responsible for issuing authorization to construct and perform work on wells as provided for under A.R.S. § 45-591 *et seq.*
- B. "Department" means the Yavapai County Department of Development Services.
- C. “Fee(s)” is the charge established by Yavapai County to cover the cost of performing the various tasks in connection with its administration and enforcement of this Water Well Code.
- D. “Hearing Officer” means an individual approved and appointed by either the Yavapai County Board of Supervisors or the Department to conduct an administrative hearing regarding matters arising under this Water Well Code.
- E. "Person" means the state, a municipality, district, or other political subdivision, a cooperative, institution, corporation, company, firm, partnership, individual or other legal entity.
- F. “Preexisting Well” means a well constructed prior to the effective date of this Water Well Code provided that such well was constructed in full compliance with all State, County and local laws or other requirements in effect at the time of construction. Preexisting wells may or may not currently meet the requirements of this Water Well Code.
- G. “Septic and other waste water systems” means any system designed to disperse or otherwise treat sewage or other waste water including, but not be limited to: (1) all types of septic systems and leach fields or other means of disbursing effluent, (2) gray water or other similar discharge systems, and (3) “outhouses” or other forms of dry, pit or composting human waste disposal or treatment.
- H. "Water Well Code" or "Yavapai County Water Well Code" means Reg. 1-1-101 through Reg. 1-6-601.
- I. “Well” means that from which water is proposed to be used for domestic purposes as defined in A.R.S. § 45-454(I) on a parcel of land of 5 or fewer acres.
- J. “Work” as it pertains to a water well includes all activities associated with construction, including but not limited to, drilling, deepening, modifying, installing or replacing casing, perforating or otherwise fracturing subsurface material adjacent to the well. Work is not meant to include installing or replacing pumps, piping or electrical connections for the well.

SECTION II
APPROVAL, OPERATION VIOLATION, and DISTANCE REQUIREMENTS

Reg. 1-2-201 County Approval Requirement

Pursuant to A.R.S. § 45-596(F) and (G) written approval is required by the County as a prerequisite to ADWR approval of well construction.

Reg. 1-2-202 Well Operation Violation

It shall be a separate violation of this Water Well Code for a person to operate a well constructed or worked on in violation of this Water Well Code.

Reg. 1-2-203 Minimum Distance Requirements

A. Property Boundary Setbacks

No well shall be approved for construction in a location less than 50' from the property boundaries of the parcel on which the well is proposed for construction, except as provided for below:

1. For a parcel that abuts a dedicated roadway upon which the public has the right of travel, the 50' property boundary setback shall be measured from the center of the area dedicated for roadway.
2. For a parcel that abuts a railway, the 50' property boundary setback shall be measured from the center of the area dedicated for railway.
3. No property boundary setback shall be required for a parcel that abuts an area served by a sewer system provided that:
 - (A) all habitable structures are serviced by the sewer system, and
 - (B) all future development of the area is required to be served by the sewer system.
4. Waiver is obtained from abutting property owners establishing a legally enforceable easement and right of encroachment into all or part of the abutting property boundary setback. Where abutting property owners have agreed to not locate a septic system within 100' of the proposed well, the property boundary setback requirement may be reduced to 0.' The exact amount by which the property boundary is reduced from 50' is dependent upon maintaining 100' separation between the well and any current or future septic system. The abutting property owner agreement must be recorded in the official records of the County.

B. Work on a Preexisting Well

1. The County shall approve work on any preexisting working well notwithstanding that such well does not currently satisfy the requirements of Reg. 1-2-203 and/or Reg. 1-3-302.

2. The County's approval of work on a preexisting well is a prerequisite to, but in no way requires, ADWR to issue its authorization to perform work on the well.

**SECTION III
APPLICATION and REVIEW**

Reg. 1-3-301 Application for County Approval

A. Application Form

An application for County approval of a well shall be made on ADWR Form DWR 55-40 (Rev. 02/02/02) or successor forms thereto.

1. The form shall be completed in all respects as pertain to the applicant.
2. Information provided on the form must be accurate.
3. The form shall be signed by the well owner or property owner, or the owner's legal representative.
4. The site plan portion of the form shall identify the location of the proposed well, noting exact distances from the subject property boundaries. The site plan shall additionally identify the location of all existing water wells, septic and other waste water systems within a 200' radius of the proposed well location. The site plan shall be drawn to scale.
5. For requests to approve reduction of the 50' property boundary setback under the provisions of Reg. 1-2-203(A)(4), copies of all recorded documents must also be submitted for review.

B. Application Fees

1. An application fee must be submitted with the application. An application will not be reviewed or approval granted by the Department without prior payment of the fee.
2. An additional document review fee shall be required in the event that the 50' property boundary setback is reduced under the provisions of Reg. 1-2-203(A)(4).
3. Fees including, but not limited to, those provided for above may be charged as authorized by the Yavapai County Board of Supervisors. Fees paid or submitted under this Water Well Code are not refundable and are to be paid by cash, check or money order.

Reg. 1-3-302 Application Review – County Approval

- A. Within thirty (30) days after receiving an application, site plan and payment of fee(s), the Department will:
 1. Issue a written approval or endorsement of the application, or
 2. Issue a written statement requesting additional information, or

3. Issue a written denial of the submitted application and provide the reasons for denial.
- B. The Department shall generally approve plans when its minimum requirements are satisfied. In addition to that set forth by Reg. 1-3-301, the Department's minimum requirements include:
1. A well shall be located in accordance with the property boundary setback provisions of Reg. 1-2-203.
 2. A well shall not be located within 100 feet of septic and other waste water systems. For purposes of satisfying this spacing requirement, only locations of tanks, treatment and dispersion systems are considered. (E.g., the location or placement of sealed piping used to transport effluent from the septic tank to leach field is not considered for purpose of satisfying this spacing requirement so long as both the tank and all areas of the leach field satisfy the 100' the spacing requirement).

SECTION IV ENFORCEMENT, PENALTIES AND HEARING PROCESS

Reg. 1-4-401 Denial of Application

The Department shall deny issuing approval or endorsement to any person whose application and payment of fee(s) does not satisfy the requirements of this Water Well Code.

Reg. 1-4-402 Penalties

- A. It shall be a misdemeanor for a person to violate this Water Well Code, a published regulation of Yavapai County, as provided for by A.R.S. § 36-183.03.
- B. It shall be a misdemeanor and separate violation of this Water Well Code for a person to operate a well constructed or worked on in violation of this Water Well Code, as provided for by A.R.S. § 36-183.03.
- C. Civil fines or penalties applicable to Yavapai County Planning and Zoning matters shall be imposed in administrative adjudications with respect to civil administrative enforcement actions that arise under this Water Well Code.

Reg. 1-4-403 Hearing Process

A. Appeal of Department's Action

Before commencing an action in court, a person aggrieved by the Department's action taken with respect to this Water Well Code shall first challenge the Department's action through an administrative hearing process. The hearing procedure applicable to Yavapai County Board of Adjustment review of planning

and zoning matters shall be followed with respect to an appeal of the Department's action taken under this Water Well Code. The Yavapai County Board of Supervisors may, in its discretion, appoint a hearing officer to adjudicate such appeals, in which case the hearing officer rather than the Board of Adjustment shall adjudicate the appeal.

B. Department Enforcement of Water Well Code

The Department may commence an action to enforce this Water Well Code as an administrative proceeding or as an action before the courts. The Department is not required to initiate or complete an administrative adjudication of its enforcement action prior to commencing an action in court. In the event that the Department commences an enforcement action as an administrative proceeding, the hearing procedure applicable to Yavapai County Planning and Zoning matters shall be followed.

**SECTION V
AUTHORITY TO REGULATE**

Reg. 1-5-501 Legislative Authority

- 1. The Board of Supervisors has authority pursuant to A.R.S. §11-251(17) to "Adopt provisions necessary to preserve the health of the county, and provide for the expenses thereof."
- 2. The Board of Supervisors is further authorized pursuant to A.R.S. § 11-251(31) to "Make and enforce all local, police, sanitary and other regulations not in conflict with general law."
- 3. Pursuant to A.R.S. § 36-183.02(A)(1) the county shall "make regulations necessary for the public health and safety of the inhabitants."
- 4. Pursuant to A.R.S. § 45-596(F) and (G) the County's written approval of well construction and work is a prerequisite to ADWR approval of well construction.

**SECTION VI
EFFECTIVE DATE**

Reg. 1-6-601 Effective Date

The Yavapai County Water Well Code became effective March 3, 2003. Wells approved or endorsed for construction by Yavapai County prior to the above effective date are not subject to the Water Well Code except as to work following completion of original construction.